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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/781,772	02/20/2004	Ioana Donescu	01807.101373.	3762
5514 7590 05/27/2009 FITZPATRICK CELLA HARPER & SCINTO 30 ROCKEFELLER PLAZA NEW YORK, NY 10112				
EXAMINER NGUYEN, DUSTIN				
ART UNIT 2454		PAPER NUMBER		
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/781,772

**Applicant(s)**

DONESCU ET AL.

**Examiner**

DUSTIN NGUYEN

**Art Unit**

2454

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 March 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-4, 6-13, 15-18, 20 and 22-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-13, 15-18, 20 and 22-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

1. Claims 1-4, 6-13, 15-18, 20, 22-26 are presented for examination.

***Continued Examination Under 37 CFR 1.114***

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 03/09/2009 has been entered.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1, 10, 17, 18 and 20 are rejected under 35 U.S.C. 102(e) as being anticipated by Ye et al. [ US Patent No 7,028,074 ].

5. As per claim 1, Ye discloses the invention as claimed including a method of allocating at least one service by a first peer to a second peer, the first and second peers being linked by means of a computer communication network, said first and second peers belonging respectively to a first and second group of peers adapted to share data [ i.e. peer group ] [ Figures 1, 5 and 6 ], comprising the steps of:

initializing preferences of said first peer, wherein said preferences comprise a set of associations consisting of a service and a distance in a graphic of peers [ col 9, lines 18-38; and col 14, lines 24-33 ];

evaluating a distance between said first and second peers, wherein said distance between said first and second peers is a distance in the graphic of peers [ i.e. identify or determine distance for each channel ] [ col 4, lines 25-35 ];

selecting, by said first peer, a service supplied by said first peer, said service being selected according to the evaluated distance from among said set of associations consisting of the service and the distance [ i.e. select distance for a given event ] [ Figure 20; and col 10, lines 45-59 ]; and

allocating said selected service to said second peer [ i.e. provide image ] [ Figure 4; and col 4, lines 5-44 ].

6. As per claims 10, 17, 18 and 20, they are rejected for similar reasons as stated above in claim 1.

7. Claims 1-4, 7, 8, 10-13, 15-18, 20, 22-26 are rejected under 35 U.S.C. 102(e) as being anticipated by Malzbender et al. [ US Patent No 6,853,398 ].

8. As per claim 1, Malzbender discloses the invention as claimed including a method of allocating at least one service by a first peer to a second peer, the first and second peers being linked by means of a computer communication network, said first and second peers belonging respectively to a first and second group of peers adapted to share data [ i.e. observing participants over a peer-to-peer communication ] [ Figure 6; col 7, lines 46-51; and col 10, lines 20-29 ], comprising the steps of:

initializing preferences of said first peer, wherein said preferences comprise a set of associations consisting of a service and a distance in a graphic of peers [ i.e. from plurality of video streams, a new view synthesis technique can be applied to generate a video image stream in real-time of the local participant rendered from a second location of the local participant in a coordinate space of a virtual environment ] [ Abstract; col 5, lines 14-28; and col 6, lines 42-col 7, lines 38 ];

evaluating a distance between said first and second peers, wherein said distance between said first and second peers is a distance in the graphic of peers; selecting, by said first peer, a service supplied by said first peer, said service being selected according to the evaluated distance from among said set of associations consisting of the service and the distance [ i.e. images of the local participant can be scaled appropriately to reflect the relative distances between the local participants and each of the plurality of observing participants ] [ Figure 6; col 14, lines 65-col 15, lines 10; and col 16, lines 6-18 ]; and

allocating said selected service to said second peer [ i.e. enable real-time communication from local participant to second participant ] [ Abstract; and col 16, lines 18-21 ].

9. As per claim 2, Malzbender discloses wherein the evaluation step comprises a step of receiving a notification sent by a central server in said computer communication network, said notification comprising a value of said distance and an identifier of said second peer on the computer communication network [ i.e. central host notifies ] [ col 8, lines 36-52; and col 10, lines 20-30 ].

10. As per claim 3, Malzbender discloses wherein the evaluation step comprises a step of reading a value of said distance associated with said second peer amongst a list of associations of peers and distances [ Figure 6; and col 14, lines 4-65 ].

11. As per claim 4, Malzbender discloses wherein the evaluation step comprises a step of receiving an electronic ticket sent by said second peer, comprising an identifier of said second peer and the distance between the first and second peer [ i.e. notify each other of location update ] [ col 8, lines 37-52 ].

12. As per claim 7, Malzbender discloses wherein the shared data is represented at multiple resolution levels, and said services to be allocated correspond to various resolution levels of the data to be shared between the first group and the second group of peers [ i.e. the degree of audio

coupling is a function of the distance between two participants ] [ col 12, lines 45-65 ].

13. As per claim 8, Malzbender discloses wherein the shared data are digital images [ col 15, lines 3-10 ].

14. As per claim 22, Malzbender discloses wherein said set of associations consisting of the service and the distance is stored in a table on said first peer [ col 5, lines 48-53; and col 8, lines 47-52 ].

15. As per claim 23, Malzbender discloses wherein said preferences also comprise a set of associations consisting of a degressive service and a distance in the graphic of peers [ col 12, lines 45-65 ].

16. As per claim 24, Malzbender discloses wherein the distance in said graphic of peers corresponds to a minimum number of arcs which connect two nodes in said graphic of peers, said two nodes representing respectively two peers in the communication network [ Figures 4A, 5A and 6 ].

17. As per claim 25, Malzbender discloses a peer initialization step to establish a list of peers forming a group of peers adapted to share data [ Figure 6; and col 14, lines 4-65 ].

18. As per claim 26, Malzbender discloses a peer initialization step for said first peer and said second peer to establish, respectively, said first group of peers and said second group of peers adapted to share data without service restriction [ i.e. shared virtual environment ] [ Figure 6; Abstract; and col 15, lines 32-49 ].

19. As per claims 10-13, they are rejected for similar reasons as stated above in claims 1-4.

20. As per claim 15, Malzbender discloses a microprocessor; a read only memory adapted to store a service allocation program; and a random access memory comprising registers adapted to store variables during the execution of said program [ col 4, lines 10-23 ].

21. As per claim 16, Malzbender discloses wherein the device is incorporated in a terminal in a computer communication network [ col 4, lines 10-23 ].

22. As per claims 17, 18 and 20, they are rejected for similar reasons as stated above in claim 1.

***Claim Rejections - 35 USC § 103***

23. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person



having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

24. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Malzbender et al. [ US Patent No 6,853,398 ], in view of Ye et al. [ US Patent No 7,028,074 ].

25. As per claim 6, Malzbender does not specifically disclose wherein said set of associations is bounded by a threshold value. Ye discloses wherein said set of associations is bounded by a threshold value [ i.e. value range ] [ Figure 22; col 4, lines 33-44; and col 12, lines 22-25 ]. It would have been obvious to a person skill in the art at the time the invention was made to combine the teaching of Malzbender and Ye because the teaching of Ye would enable to provide quality of service to the system.

26. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Malzbender et al. [ US Patent No 6,853,398 ], in view of Mukherjee et al. [ US Patent Application No 2004/0010614 ].

27. As per claim 9, Malzbender discloses , and said services to be allocated correspond to various levels of visual quality of the data to be shared between the first and second group of peers [ i.e. scaled to reflect the distance ] [ col 15, lines 1-9 ]. Malzbender does not specifically disclose wherein the shared data are compressed digital images to the JPEG 2000 format [ paragraphs 0006, 0033, and 0036 ]. Mukherjee discloses wherein the shared data are compressed digital images to the JPEG 2000 format. It would have been obvious to a person

skill in the art at the time the invention was made to combine the teaching of Malzbender and Mukherjee because the teaching of Mukherjee would enable to provide a system and format for delivering any type of scalable encoded media to media destinations having a variety of receiving attributes [ Mukherjee, paragraph 0001 ].

28. A shortened statutory period for response to this action is set to expire **3 (three) months and 0 (zero) days** from the mail date of this letter. Failure to respond within the period for response will result in **ABANDONMENT** of the application (see 35 U.S.C 133, M.P.E.P 710.02, 710.02(b)).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dustin Nguyen whose telephone number is (571) 272-3971. The examiner can normally be reached on flex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Flynn can be reached at (571) 272-1915. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/DUSTIN NGUYEN/  
Primary Examiner, Art Unit 2454